IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5699 of 1987
with
SPECIAL CIVIL APPLICATION No. 517 of 1988
with
SPECIAL CIVIL APPLICATION No. 6783 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE H.K. RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 ; NO

MAHENDRAKUMAR BHAGVANDAS

Versus

STATE OF GUJARAT

Appearance:

MR PH PATHAK for Petitioners

MR ANANT S DAVE for Respondent No. 1, 2

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 02/05/2000

ORAL JUDGEMENT

In this group of three matters, the main prayer made by the petitioners is in respect to treating all the petitioners as regular employees of respondents from their initial date of appointment and for grant of consequential benefits available to regular Government

servants.

2. The name, designation, date of initial appointment, daily wages and time scale of each of the petitioners-employees has been given in Annexure-A to each petition. Learned advocate Mr. Pathak submitted that during the pendency of these petitions, the respondent authorities and Government has granted the benefit to each workmen in pursuance to G.R dated 17th October, 1988. This statement was not disputed by the learned advocate appearing on behalf of the respondents. The grievance of the petitioners is that according to the Government Resolution dated 17th October, 1988 once the benefit has been extended to the workmen while regularizing their services and extending the benefit of regular pay scale, then these workmen must be ceased to be the daily rated employees and all are required to be considered as regular employees of the respondents as they should be given all the benefits which are being to the permanent employees of the respondents.

3. I have considered the submissions of both the sides. I am of the opinion that the services of the concerned daily rated employees have been regularized according to the Government Resolution and the benefits have been extended to such workmen and also the services have also been considered as pensionable by the respondents, then they cannot be considered daily rated regular employees. I am of the opinion that such label itself is contrary to the Government Resolution dated 17-10-1988 which in terms provide that the daily rated employees who have completed services of more than 10 years will be treated as permanent employees and such permanent workmen will be entitled to monthly basic pay in the pay scale of Rs. 750-950 plus dearness allowance, house rent allowance, City Compensatory Allowance, etc. They will also be entitled to other benefits like pension, gratuity, provident fund, etc., as per the rules and regulations in force. Besides, they will be entitled to 14 days casual leave per year, Earned Leave of 30 days, medical leave of 20 days, leave on all Sundays and public holidays, etc. Each of the workmen who have performed the service of more than ten years' should be given the status of permanency and the workmen who have completed fifteen years' service should be given one increment, those who have completed twenty years' service should be given two increments and those who have completed the service of more than 25 years should be given three increments in the Pay scale of Rs. 750-950. Learned advocate Mr. Pathak has clearly pointed out to this Court that in all three petitions, the concerned

workmen whose names are mentioned in Annexure-A have completed more than 10 years' service and they are receiving the benefit under the Government Resolution dated 17th October, 1988 and this fact has not been disputed by the respondents-authorities. The petitioner has relied upon a judgment in the matter of Chief Conservator of Forests & Anr. v/s. Jagarnath Maruti Kondhre & Ors., reported in (1996) 2 SCC 293. The above resolutions dated 17-10-1988 and 1/10/1988 were based on 2 (p) settlement under the provisions of Industrial Disputes Act, 1947. In view of this circular dated 1.10.1988, which was based on the Settlement wherein all the Deputy Secretaries of the concerned Departments had appeared, negotiated and participated and have also signed the very settlement, subsequently, the Government has issued the Resolution dated 17th October, 1988 and therefore, in view of the settlement dated 1.10.1988, and the subsequent resolution dated 17th October, 1988 and considering the statement made by learned advocate Shri Pathak, according to my opinion, the concerned workmen enlisted at Annexure-A in each petition are regular permanent employees of the respondents and all these employees are entitled to all the benefits as a permanent employees of the respondents, and therefore, the said petitions are required to be allowed. Accordingly, I pass the following orders.

These petitions are allowed. Repondents are directed to treat all the workmen whose names are mentioned in Annexure-A to each petition as permanent employees and to treat them at par with other regular employees and to grant all the benefits as such. Rule is made absolute accordingly. Ad-interim relief; if any, stands vacated. There shall be no order as to costs.

[H.K Rathod, J.]

Prakash*